



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

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LOS ANGELES, CALIFORNIA 90012
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January 22, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

TECHNICAL CHANGES TO THE DEFINED CONTRIBUTION PLANS (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

Adopt the accompanying resolution and ordinance implementing technical amendments to the 401(a) Termination Pay Pick-Up Plan, 401(k) Deferred Earnings Plan, 457 Deferred Compensation & Thrift Plan ("Horizons Plan"), and the 401(k) Savings Plan to keep the plans in compliance with Federal tax law and improve the operation of the plans.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The aforementioned defined contribution plans are tax favored employee benefit plans that must be set-up and operated in accordance with Federal tax law. Legislative changes in the form of the Pension Protection Act of 2006 and recently issued regulations and other published guidance from the Internal Revenue Service (IRS) now permit or require the various technical changes recommended herein. The purpose of these recommendations is to implement change in the following areas:

Tax Deferred Contributions from Termination Pay

Employees who terminate County employment may receive "termination pay" for unused accrued vacation, sick leave, or other accrued time pursuant to longstanding provisions contained in the County Code and various memoranda of understanding.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

Recently issued IRS regulations now permit tax deferred employee contributions to the Horizons Plan and Savings Plan to be taken from termination pay in the same manner they may be taken from ordinary salary earned prior to termination. However, total employee contributions in any given year, including contributions from termination pay, may not exceed the annual dollar limits otherwise applicable to these plans (\$15,500 in 2008 or \$20,500 for employees age 50 and older).

We are recommending that the Horizons Plan and Savings Plan be amended to take full advantage of the new regulations. This is a clear tax advantage for the affected employees at no additional cost to the County. For example, an employee who signs-up for a 5 percent deferral into the Horizons Plan will now have 5 percent of his or her termination pay automatically contributed to the Plan on a tax deferred basis providing the aforementioned annual dollar limits are not exceeded. It is important to note, however, that no matching County contributions will be made against contributions taken from termination pay. Therefore, there will be no increase in the County cost attributable to the Horizons Plan or Savings Plan.

In 2004, your Board approved a separate 401(a) plan known as the Termination Pay Pick-Up Plan that also permitted tax deferred contributions from termination pay. This Plan applied to represented employees exclusively. In addition, your Board approved similar changes to the 401(k) Savings Plan that applied to non-represented employees exclusively. In April 2006, we informed your Board that these plans were being suspended on a going forward basis due to oral notification from the IRS that it was reversing its longstanding position on Internal Revenue Code provisions key to the legal viability of these programs. The IRS promised that more guidance would be forthcoming on this subject.

Although we are still waiting for IRS guidance related to the Termination Pay Pick-Up Plan, the IRS has separately issued final written regulations that clearly permit the changes we are recommending at this time. These changes involve none of the problems or risk associated with the former program. With regard to the former program, we are continuing to work with counsel and the IRS to determine the appropriate disposition of monies contributed to the program by employees who terminated before the program was suspended. We will keep your Board informed as to the status on this issue.

“Grandfathering” Certain Ineligible Contributions

On December 4, 2007, your Board approved an amendment to the Horizons Plan that grandfathered employee contributions to that plan from approximately 79 employees who became ineligible to make contributions because they changed their employment status from full-time to part-time. Part-time employees are not permitted to make

employee contributions or receive matching County contributions under the Horizons Plan or the Savings Plan. In 2004, however, a systems error was discovered that was allowing such contributions for employees who once held permanent full-time status. As explained in the December 4, 2007 Board letter, the problem was corrected on a going forward basis. The impermissible contributions were stopped in March 2004, and there has been no further recurrence of this problem. On advice of counsel, a request was submitted to the IRS Voluntary Correction Program to approve a one-time grandfathering of the contributions that were erroneously allowed. The IRS found this approach to be an acceptable correction and tentatively granted its approval contingent on your Board first taking action to implement the change.

We have the same issue in the Savings Plan and are recommending the same solution. Approximately 84 employees are affected in this case. On advice of counsel, we have followed the same steps with regard to the IRS. In this instance, however, the IRS has already granted its final approval without any requirement that your Board act first. The IRS deals with 457 plans and 401(k) plans separately, and it essentially gave the County more time to make this correction than was the case with the Horizons Plan. The accompanying resolution contains a list of the affected employees as required by the IRS.

Transfer of Funds to Purchase LACERA Service Credit

Currently, employees in active County service may not transfer funds from the Savings Plan to purchase additional retirement service credit at Los Angeles County Employees Retirement Association (LACERA). They may do so within 120 days after separating from County service, but they may not make the transfer while still employed. "Additional retirement service credit" for this purpose means purchased credit for prior public service not otherwise creditable under the 1937 Retirement Act. This may include, for example, prior County temporary service. It may also include purchased credit for up to five years of service over and above any actual service – temporary or otherwise. This is often referred to as "Air Time" or "Additional Retirement Credit (ARC)."

The Pension Protection Act of 2006 permits the transfer of funds for these purposes either before or after separation from employment. We see no reason not to permit such transfers during active County service, and the accompanying ordinance amends the Savings Plan to make this an option in accordance with the new law. Transfers of assets for this purpose may be used to purchase service credit under a LACERA plan or under any governmental "defined benefit" retirement plan to which an employee may otherwise have the right to make such a purchase.

The same issue and the same recommended change also applies to the Deferred Earnings Plan. The Deferred Earnings Plan previously applied to physicians, primarily, and has been closed off to new contributions since 2001. The affected physicians are now eligible to participate in the Savings Plan and may transfer their Deferred Earnings Plan assets to the Savings Plan. However, much of the previously accumulated assets still remain in the old Deferred Earnings Plan and, therefore, this change should be extended to that plan as well.

Benefit Distributions to Beneficiaries other than Spouses

The Pension Protection Act also extends to non-spouse beneficiaries certain benefit distribution privileges that were heretofore limited to surviving spouses. A "non-spouse beneficiary" for this purpose may essentially be anyone who is not a spouse. It could, for example, be a parent or child, or a domestic partner. The benefit distribution privileges include the ability to make emergency withdrawals in the same manner a surviving spouse could make them, and the ability to rollover assets to an individual retirement account when the beneficiary is otherwise eligible to receive a distribution from the plans. A married employee must have his or her spouse's notarized consent to identify someone other than the spouse as the primary beneficiary.

These changes have already been incorporated into the day-to-day administration of the County's defined contribution plans. They represent no change in current practice. However, the IRS requires that the practice be in synch with the authorizing plan documents and, therefore, these changes are included in the accompanying ordinance.

Employee Settlement Awards

Employees who are discharged, suspended, or demoted due to disciplinary action may ultimately have the action reversed or mitigated by County management or by the Civil Service Commission. Where this happens, Board approved policy provides, under specified conditions, for the restoration of lost compensation (a "settlement award"). Where an affected employee is also a participant in the Horizons Plan or the Savings Plan, the restoration must address the lost tax deferred contributions to the plan, including matching contributions, and the lost investment income on those contributions.

IRS regulations provide specific guidance on how to make an employee whole for lost contributions to a defined contribution plan, and the accompanying ordinance fully implements that guidance. Where employee contributions were lost during the current tax year, the contributions will be taken from the settlement award payment for lost salary, and the County will make the matching contributions that would otherwise have been required. The County will also contribute an additional amount equal to the

investment return that money would have earned based on the actual performance of the assets the employee otherwise had invested in the plan during the period in question.

Where employee contributions were lost during a prior tax year, no employee contributions may be taken from the settlement award payment. However, the County will nevertheless make the matching contributions that would have been made, but for the disciplinary action, plus the earnings that would have been made on those contributions. In addition, the County will contribute a tax deferred amount to the plan equal to two percent of the employee's compensation. This is the remedy set out in the IRS regulations where a prior tax year is involved.

We estimate that fewer than 50 employees per annum receive settlement awards. For those who do, the process outlined above conforms substantially with the administrative

practices already in place, particularly with regard to the treatment for lost contributions in the current tax year. County payment for the lost investment return is new, and the two percent contribution for prior tax years is also new, but the process otherwise parallels current policy. This change affects the Horizons Plan and the Savings Plan.

Alternate Members for Plan Administrative Committees

The day-to-day oversight of each of the defined contribution plans has been delegated by your Board to "Plan Administrative Committees." The funds in each plan are held in trust and the members of each committee are considered plan fiduciaries. Committee meetings are conducted pursuant to the Brown Act.

In the case of the Horizons Plan, there are a total of nine committee members, four representing County management, four representing employee unions, and one public member selected by your Board. The four union members consist of two representatives from the Coalition of County Unions and two representatives from SEIU Local 721. Each of these representatives has two named alternate members that may serve in the absence of the primary representative. Alternate members may not serve in the absence of anyone other than their designated primary representative.

We are recommending that the rules be changed to permit any alternate member representing the Coalition of County Unions to serve in the absence of any primary union member from that union group, and to permit any Local 721 alternative member to serve in the absence of any primary union member from that group. This change supports the important fiduciary role performed by these representatives.

All Plan Administrative Committee meetings are chaired by the Chief Executive Officer or any of two alternate members for the Chief Executive Officer. In this connection, we are recommending a further change that will permit the Chief Executive Officer to delegate this responsibility to a substitute representative within the office. This representative will then have two alternates who may serve in his absence.

Unlike the other changes outlined above, these changes are not mandated by law or IRS dictate, but we believe them to be more sensible and will improve the administration of the program. The Coalition of County Unions and Local 721 concur.

Implementation of Strategic Plan Goals

The actions recommended in this letter promote workforce excellence by resolving workplace issues and by improving employee morale through providing an effective vehicle for retirement savings.

FISCAL IMPACT/FINANCING

The administrative cost to operate each defined contribution plan is fully paid through respective plan participant fees charged monthly to their account(s). There is no measurable County cost associated with any of the recommendations contained herein.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The accompanying ordinance also deletes various provisions in the defined contribution plans that have been rendered obsolete by the aforementioned changes in law or IRS regulations or guidance.

It will be necessary for the Executive Officer/Clerk of the Board of Supervisors to insert the ordinance number for the accompanying ordinance in the space provided in Section 5.26.020 of that ordinance, and in the space provided in the accompanying resolution.

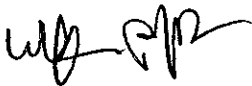
IMPACT ON CURRENT SERVICES (OR PROJECTS)

None.

Appropriate consultations have been conducted with impacted employee representatives. There has been no expressed opposition to any of these recommendations.

County Counsel has approved as to form the accompanying ordinance and resolution.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:DL

WGL:DT: df

c: County Counsel
Director of Personnel
Auditor-Controller
Department Heads
Personnel Officers
Coalition of County Unions
SEIU Local 721
Guild for Professional Pharmacists
Environmental Health Specialists
Public Defender Investigators
Professional Peace Officers Association
Union of American Physicians and Dentist
Great-West Retirement Services

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF LOS ANGELES
AMENDING THE SAVINGS PLAN TO ADDRESS CERTAIN SPECIAL ELIGIBLE
EMPLOYEES**

WHEREAS, the County maintains the County of Los Angeles Savings Plan ("Plan"), which is intended to be a qualified plan within the meaning of Internal Revenue Code ("IRC") section 401(a);

WHEREAS, words and phrases used in this resolution with initial capital letters have the definitions set forth in the Plan as amended by Ordinance _____ (unless otherwise defined);

WHEREAS, under Plan sections 5.26.020, 5.26.040 and 5.26.050, active participation is open to Eligible Employees only;

WHEREAS, the County determined that 84 participants who ceased to be Eligible Employees due to a change in employment classification or entering an excluded collective bargaining unit (the "Special Eligible Employees" as defined in the Plan), were inadvertently permitted to continue to make Tax Deferred Contributions and receive Matching Contributions under the Plan;

WHEREAS, all Tax Deferred Contributions with regard to affected ineligible Employees have ceased for compensation earned after March 31, 2004;

WHEREAS, in order to address this operational issue, on June 23, 2005, the County filed a voluntary correction submission with the Internal Revenue Service ("IRS") to ensure the Plan's continued tax-favored status under IRC section 401(a);

WHEREAS, in connection with the submission, on October 19, 2007, the IRS issued a compliance statement acknowledging that the identified operational error will not impact the Plan's tax-qualified status provided that, within 150 days, the County amends the Plan in the manner provided by Ordinance _____, which permits the affected Special Eligible Employees to leave Tax Deferred Contributions previously made on their behalf in their respective accounts;

WHEREAS, as required by the IRS, Ordinance _____ provides that the Board shall identify the Special Eligible Employees pursuant to this resolution;

NOW THEREFORE BE IT RESOLVED that the Special Eligible Employees are identified by their Participant identification numbers on Attachment A to this resolution;

BE IT RESOLVED FURTHER that Ordinance _____ amending the Plan is hereby adopted;

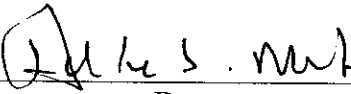
The forgoing resolution was on the ____ day of _____, 2007, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI
Executive Office-Clerk of the
Board of Supervisors
Of the County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL

RAYMOND G. FORTNER, JR.

By  _____
Deputy

ATTACHMENT A

Savings Plan Special Eligible Employees

GWRS Individual ID #	INELIGIBLE DATE	LAST ELIGIBLE CNT DATE	Ineligible Deferrals thru 15-Oct- 2004	Ineligible Matches thru 15-Oct- 2004	Last Deferral Date
922851	16-Sep-94	15-Nov-94	\$17,170.87	\$207.33	Mar-04
923016	26-Nov-94	15-Jan-95	\$9,589.79	\$304.62	Mar-04
919687	24-Dec-94	15-Feb-95	\$14,732.74	\$76.06	Mar-04
922388	19-Mar-95	15-May-95	\$43,464.47	\$0.00	Mar-04
913994	4-Aug-95	15-Oct-95	\$11,670.96	\$932.02	Mar-04
912805	1-Dec-95	15-Feb-96	\$15,314.48	\$0.00	Mar-04
914021	1-May-96	15-Jul-96	\$14,284.89	\$279.38	Mar-04
891390	1-Aug-96	15-Oct-96	\$27,885.27	\$539.94	Mar-04
903879	1-Oct-96	15-Dec-96	\$16,173.72	\$399.74	Mar-04
925945	24-Oct-96	15-Dec-96	\$20,702.67	\$408.38	Mar-04
921638	1-Nov-96	15-Jan-97	\$13,720.97	\$419.26	Mar-04
921711	22-Nov-96	15-Jan-97	\$19,689.34	\$414.29	Mar-04
912973	9-Jun-97	15-Aug-97	\$15,411.14	\$257.06	Mar-04
907867	10-Nov-97	15-Jan-98	\$16,659.65	\$0.00	Mar-04
915714	17-Nov-97	15-Jan-98	\$11,917.97	\$0.00	Mar-04
902722	1-Dec-97	15-Feb-98	\$9,544.79	\$0.00	Mar-04
925918	17-Apr-98	15-Jun-98	\$10,890.27	\$0.00	Mar-04
925909	1-Jun-98	15-Aug-98	\$11,723.66	\$0.00	Mar-04
895107	29-Jul-98	15-Sep-98	\$10,505.80	\$0.00	Mar-04
1261258	6-Sep-98	15-Nov-98	\$12,526.68	\$0.00	Mar-04
915599	15-Oct-98	15-Dec-98	\$14,416.67	\$0.00	Mar-04
915928	1-Apr-99	15-Jun-99	\$12,816.48	\$0.00	Mar-04
921159	16-Apr-99	15-Jun-99	\$8,772.84	\$0.00	Mar-04
924450	20-May-99	15-Jul-99	\$10,426.58	\$0.00	Mar-04
921839	27-Jun-99	15-Aug-99	\$9,392.06	\$0.00	Mar-04
904544	6-Jul-99	15-Sep-99	\$7,020.29	\$0.00	Mar-04
909193	1-Aug-99	15-Oct-99	\$13,846.93	\$0.00	Mar-04
898500	1-Sep-99	15-Nov-99	\$9,102.98	\$0.00	Mar-04
926372	19-Oct-99	15-Dec-99	\$12,551.51	\$0.00	Mar-04
920129	1-Nov-99	15-Jan-00	\$37,386.94	\$0.00	Mar-04
926767	6-Dec-99	15-Feb-00	\$17,337.30	\$0.00	Mar-04
897163	1-Feb-00	15-Apr-00	\$12,570.37	\$0.00	Mar-04
908325	19-Jun-00	15-Aug-00	\$12,766.39	\$0.00	Mar-04
1649336	10-Jul-00	15-Sep-00	\$6,648.30	\$0.00	Mar-04
2115922	10-Jul-00	15-Sep-00	\$5,708.94	\$0.00	Mar-04
1689922	1-Nov-00	15-Jan-01	\$8,934.13	\$0.00	Mar-04
907138	16-Nov-00	15-Jan-01	\$11,532.40	\$0.00	Mar-04
895387	1-Dec-00	15-Feb-01	\$8,737.06	\$0.00	Mar-04
895976	9-Jan-01	15-Mar-01	\$14,338.52	\$0.00	Mar-04
923262	12-Jan-01	15-Mar-01	\$8,250.97	\$0.00	Mar-04
926362	13-Feb-01	15-Apr-01	\$11,760.53	\$0.00	Mar-04
1886139	1-Mar-01	15-May-01	\$8,484.42	\$0.00	Mar-04
896128	5-Mar-01	15-May-01	\$6,678.65	\$0.00	Mar-04

ATTACHMENT A

Savings Plan Special Eligible Employees

GWRS Individual ID #	INELIGIBLE DATE	LAST ELIGIBLE CNT DATE	Ineligible Deferrals thru 15-Oct- 2004	Ineligible Matches thru 15-Oct- 2004	Last Deferral Date
926741	16-Apr-01	15-Jun-01	\$7,590.27	\$0.00	Mar-04
464068	1-May-01	15-Jul-01	\$14,611.23	\$0.00	Mar-04
2009764	7-May-01	15-Jul-01	\$8,464.38	\$0.00	Mar-04
891150	15-May-01	15-Jul-01	\$16,698.91	\$0.00	Mar-04
921001	17-Jul-01	15-Sep-01	\$6,581.75	\$0.00	Mar-04
2733458	16-Aug-01	15-Oct-01	\$12,655.07	\$0.00	Mar-04
922098	1-Sep-01	15-Nov-01	\$6,209.19	\$0.00	Mar-04
907610	16-Oct-01	15-Dec-01	\$5,471.54	\$0.00	Mar-04
925798	9-Nov-01	15-Jan-02	\$7,412.18	\$0.00	Mar-04
920640	6-Dec-01	15-Feb-02	\$5,755.44	\$0.00	Mar-04
2241824	16-Jan-02	15-Mar-02	\$8,490.38	\$0.00	Mar-04
926664	1-May-02	15-Jul-02	\$7,567.50	\$0.00	Mar-04
926601	24-May-02	15-Jul-02	\$8,503.03	\$0.00	Mar-04
1524234	1-Jul-02	15-Sep-02	\$3,220.62	\$0.00	Mar-04
924342	12-Jul-02	15-Sep-02	\$4,183.26	\$0.00	Mar-04
905827	16-Jul-02	15-Sep-02	\$17,632.93	\$0.00	Mar-04
926593	11-Sep-02	15-Nov-02	\$2,727.84	\$0.00	Mar-04
2965079	12-Oct-02	15-Dec-02	\$2,577.46	\$0.00	Mar-04
2643510	15-Oct-02	15-Dec-02	\$1,549.91	\$0.00	Mar-04
1723795	16-Oct-02	15-Dec-02	\$767.34	\$0.00	Mar-04
2039122	16-Oct-02	15-Dec-02	\$4,051.93	\$0.00	Mar-04
920680	1-Nov-02	15-Jan-03	\$2,668.75	\$0.00	Mar-04
923711	1-Nov-02	15-Jan-03	\$5,974.01	\$0.00	Mar-04
926300	4-Nov-02	15-Jan-03	\$7,176.37	\$0.00	Mar-04
913554	1-Jan-03	15-Mar-03	\$2,109.72	\$0.00	Mar-04
2423103	8-Jan-03	15-Mar-03	\$2,126.88	\$0.00	Mar-04
1109071	24-Jan-03	15-Mar-03	\$1,962.79	\$0.00	Mar-04
926634	18-Mar-03	15-May-03	\$4,130.04	\$0.00	Mar-04
2710300	16-Apr-03	15-Jun-03	\$5,078.78	\$0.00	Mar-04
892898	16-May-03	15-Jul-03	\$2,389.61	\$0.00	Mar-04
1101549	23-Jun-03	15-Aug-03	\$1,340.70	\$0.00	Mar-04
923077	1-Jul-03	15-Sep-03	\$4,062.11	\$0.00	Mar-04
905873	1-Jul-03	15-Sep-03	\$664.16	\$0.00	Mar-04
921802	16-Jul-03	15-Sep-03	\$1,152.96	\$0.00	Mar-04
2901016	1-Aug-03	15-Oct-03	\$91.81	\$0.00	Mar-04
3000126	1-Aug-03	15-Oct-03	\$807.45	\$0.00	Mar-04
2696179	1-Aug-03	15-Oct-03	\$869.29	\$0.00	Mar-04
926531	1-Sep-03	15-Nov-03	\$800.24	\$0.00	Mar-04
895103	7-Oct-03	15-Dec-03	\$362.85	\$0.00	Mar-04
925592	22-Oct-03	15-Dec-03	\$4,557.60	\$0.00	Mar-04
916807	9-Nov-03	15-Jan-04	\$272.88	\$0.00	Mar-04